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Attorneys for Defendants
U.S. BANCORP and U.S. BANK NATIONAL ASSOCIATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE T. BURKE, on behalf of himself and all others similarly situated.

Case No. 09-CV-1579 JSW

CLASS ACTION

**STIPULATION TO AMEND
COMPLAINT AND [PROPOSED]
ORDER**

U.S. BANCORP, U.S. BANK N.A., and DOES 1-10, inclusive.

Defendants.

1 Plaintiff George Burke (“Plaintiff”) and defendants U.S. Bancorp and U.S. Bank National
2 Association (“Defendants”), through their respective attorneys, hereby stipulate and agree as
3 follows:

4 WHEREAS, Plaintiff filed his complaint in this matter on February 6, 2009;

5 WHEREAS, Plaintiff filed the First Amended Complaint in this matter on March 10,
6 2009;

7 WHEREAS, Defendants removed this case from California State Superior Court on
8 April 10, 2009;

9 WHEREAS, the parties have since engaged in mutual discussion and an informal
10 exchange of information regarding the conduct at issue in this litigation;

11 WHEREAS, as a result of such discussions Plaintiff and Defendants agreed that
12 Plaintiff’s First Amended Complaint may not accurately allege certain facts and Defendants’
13 policies and procedures;

14 WHEREAS, Plaintiff decided that under the circumstances, amendment of the First
15 Amended Complaint would be appropriate;

16 WHEREAS, in the process of preparing a second amended complaint, Plaintiff
17 discovered that another putative class action, commenced after this action, existed in the Central
18 District of California regarding substantially the same subject matter as the instant litigation,
19 specifically the case of *Lowe, et al. v. U.S. Bank, N.A.*, case number SACV 09-0456 AG (the
20 “*Lowe Action*”);

21 WHEREAS, counsel for Plaintiff and counsel for the plaintiffs in the *Lowe Action* agreed
22 to prepare a combined, amended complaint before this Court, the court before which the first-
23 filed action is pending, in an effort to avoid duplicative litigation and conserve judicial resources;

24 WHEREAS, Defendants have consented to Plaintiff filing the Second Amended
25 Complaint, which, among other things, combines Plaintiff’s complaint with the complaint of the
26 plaintiffs in the *Lowe Action*: Robert Lowe, Lori Aldana, Shane Parkins, and Kara Parkins; and

1 WHEREAS, on June 15, 2009, the *Lowe* Action was voluntarily dismissed without
2 prejudice to the plaintiffs' right to re-file, in anticipation of the filing of the Second Amended
3 Complaint before this Court;

4 NOW THEREFORE, the parties hereby agree and stipulate to the filing of the Second
5 Amended Complaint attached hereto as Exhibit 1 and the addition of Robert Lowe, Lori Aldana
6 and Shane and Kara Parkins as plaintiffs to the instant litigation. The parties further stipulate
7 that should the Court issue an order approving the filing of the Second Amended Complaint, then
8 Defendants should have fifteen (15) days from the date of such order to respond to the Second
9 Amended Complaint.

10 Dated: July 13, 2009

11 JEFFREY F. KELLER
12 KATHLEEN R. SCANLAN
13 CAREY G. BEEN
14 KELLER GROVER LLP

15 By: /s/ Kathleen R. Scanlan
16 Kathleen R. Scanlan

17 Dated: July 13, 2009

18 JAMES R. MCGUIRE
19 SYLVIA RIVERA
20 MORRISON & FOERSTER LLP

21 By: /s/Sylvia Rivera
22 Sylvia Rivera

23 Attorneys for Defendants
24 U.S. BANCORP and U.S. BANK
25 NATIONAL ASSOCIATION

26 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

27 Dated: July 14, 2009

28 By: Jeffrey S. White
29 Judge Jeffrey S. White
30 United States District Court Judge